



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

DAVID RAY RHAME,
Plaintiff,

vs.

BENJAMIN W. PARKER, JR., and MELVIN
CUMBEE, both of the North Charleston Police
Department, in their individual capacity,
Defendants.

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CIVIL ACTION NO. 0:05-1892-HFF-BM

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE AND
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

This case was filed as a Section 1983 action. Plaintiff is proceeding *pro se*. The matter is before the Court for review of the report and recommendation (report) of the United States Magistrate Judge in which he suggests that Plaintiff's motion for summary judgment be denied. The report is made in accordance with 28 U.S.C. § 636 and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the report on August 10, 2005, and the Clerk of Court filed Plaintiff's objections on August 16, 2005. The Court has considered Plaintiff's objections, but finds them to be without merit. Simply stated, Plaintiff has failed to establish that summary judgment on the pleadings is proper. "He has provided no evidence to support his claim, and is obviously not entitled to summary judgment based solely on his general and conclusory argument in his motion that . . . Defendants have committed gross negligence and therefore he is entitled to judgment." (Report 2.) Thus, the Court will enter judgment accordingly.

After a thorough review of the report and the record in this case pursuant to the standards set forth above, the Court adopts the report and incorporates it herein. Therefore, it is the judgment of this Court that Plaintiff's motion for summary judgment must be **DENIED**.

IT IS SO ORDERED.

Signed this 2nd day of December, 2005, in Spartanburg, South Carolina.

/s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has a right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.